



# The Attorney General of Texas

December 8, 1977

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Honorable Felipe Reyna  
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Opinion No. H- 1101

Re: Use of misdemeanor  
convict laborers.

Dear Mr. Reyna:

You have requested our opinion concerning the use of convict laborers under articles 43.09 and 43.10 of the Texas Code of Criminal Procedure. You ask whether it would be necessary to establish a county workhouse or county farm in order for a commissioners court to utilize the labor or persons convicted of misdemeanors on public roads, bridges and other projects of the county.

Article 43.09 provides in part:

When a defendant is convicted of a misdemeanor . . . he may . . . be put to work in the workhouse, or on the county farm, or public improvements of the county . . . .

Article 43.10 provides in part:

1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of said parties so convicted;

. . . . .

5. They shall be put to labor upon the public roads, bridges or other public works of the county when their labor cannot be utilized in the county workhouse or county farm.

In Attorney General Opinion O-3260 (1941) this office ruled that it would not be necessary to establish a workhouse or county farm in order to use misdemeanor convict labor upon public improvements. The statutes involved therein were identical in pertinent respects to articles 43.09 and 43.10.

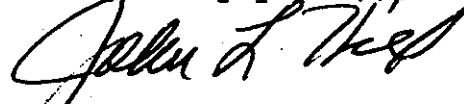
In light of the unchanged language of the statute, the article 43.09 provision that such labor may be used "in the workhouse, or on the county farm, or public improvements of the county," and the language of article 43.10(5), we believe Attorney General Opinion O-3260 (1941) is controlling. (Emphasis added).

You have also asked about the nature of liability of the county to a convict laborer injured while performing such labor. We must decline to answer this question since the issues involved are in litigation. Garcia v. Texas Department of Corrections, No. 31,691-D, District Court of Fort Bend County, 130th Judicial District of Texas, Richmond, Texas 77469. See Attorney General Opinion H-139 (1973).

#### S U M M A R Y

It is not necessary to establish a county workhouse or county farm in order to utilize misdemeanor convict labor upon public improvements of the county under articles 43.09 and 43.10 of the Code of Criminal Procedure.

Very truly yours,



JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jst